IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

SHAWN LAVEING,	)	
	)	
Plaintiff,	)	
	)	
v.	)	2:19cv1095
	)	**Electronic Filing**
NORFOLD SOUTHERN RAILWAY	)	
COMPANY,	)	
	)	
Defendant.	)	

MEMORANDUM ORDER

September 28, 2020

Plaintiff, Shawn Laveing ("Laveing" or "Plaintiff"), initiated this action against former employer, Norfolk Southern Railway Company ("Norfolk") alleging violations of the Family Medical Leave Act, 29 U.S.C. § 2601, *et seq.* ("FMLA") and the Federal Railroad Safety Act, 49 U.S.C. § 20109, *et seq.* ("FRSA"). The case was referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge's Report and Recommendation (ECF No. 35), filed on August 21, 2020, recommended that the Motion to Dismiss Count II of the Amended Complaint (ECF No. 14) filed by Norfolk be granted and Count II of Laveing's Amended Complaint be dismissed with prejudice. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had fourteen (14) days to file any objections. Objections were filed by Laveing on September 4, 2020, and Norfolk responded to the objections on September 11, 2020.

After review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 28th day of September, 2020,

IT IS HEREBY ORDERED that the Motion to Dismiss Count II of the Amended

Complaint (ECF No. 14) is **GRANTED** and Count II is dismissed with prejudice.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 35) dated

August 21, 2020 is adopted as the Opinion of the Court.

s/ DAVID STEWART CERCONE
David Stewart Cercone
Senior United States District Judge

cc: Gregory G. Paul, Esquire
        Joseph P. Sirbak, II, Esquire

        (*Via CM/ECF Electronic Mail*)